

## REMARKS

### **I. Introduction**

Claims 15 to 28 are currently pending. In view of the following remarks, it is respectfully submitted that claims 15 to 28 are allowable, and reconsideration of these claims is respectfully requested.

### **II. Rejection of Claims 15 to 20, and 25 to 27 under 35 U.S.C. § 103(a)**

Claims 15-20 and 25-27 were rejected under 35 U.S.C. § 103(a) as unpatentable over German Patent No. DE 41 07 850 (the “Weidel ’850 reference”) in view of U.S. Patent No. 6,049,387 (the “Griesinger reference”). Applicant respectfully submits that this rejection should be withdrawn for at least the following reasons.

In order for a claim to be rejected for obviousness under 35 U.S.C. § 103(a), the prior art must teach or suggest each element of the claim. See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 (1990); In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990). To establish a *prima facie* case of obviousness, the Examiner must show, *inter alia*, that there is some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the references, and that, when so modified or combined, the prior art teaches or suggests all of the claim limitations. M.P.E.P. §2143. In addition, as clearly indicated by the Supreme Court, it is “important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements” in the manner claimed. See KSR Int’l Co. v. Teleflex, Inc., 127 S. Ct. 1727 (2007).

Independent claim 15 recites the following:

15. *A driver assistance night-vision system for a motor vehicle, comprising:*  
*a camera having an image sensor and a filter element, wherein the image sensor is configured for recording electromagnetic radiation from the visible range and the infrared range of the spectrum, and wherein the filter element is positioned in an optical path of the night-vision system in such a way that the filter element causes an attenuation of recorded electromagnetic radiation from predefined partial areas of an image scene, and wherein the predefined partial areas of the image scene are imaged onto corresponding predefined partial areas of the image sensor, and*

wherein **the filter element has an inverse wavelength characteristic as a wavelength characteristic of a headlight of the motor vehicle.**

Independent claims 26 and 27 include features analogous to the above-recited features included in claim 15.

In support of the rejection, the Examiner concedes that neither Weidel nor Griesinger discloses that “**the filter element has an inverse wavelength characteristic as a wavelength characteristic of a headlight of the motor vehicle,**” but the Examiner summarily concludes that: a) “Griesinger discloses a road condition detector that accounts for the use of the vehicle headlights by suitabl[y] compensating an overall detected intensity (C:9 L:4-24) and utilizes the characteristics of filter components for the wavelength ranges detected”; b) “it would have been obvious to a person of ordinary skill in the art to **utilize the filter and normalization means of Griesinger** in the system of Weidel . . . to improve the road condition determination accuracy”; and c) “it would have been obvious to . . . modify the filter to have an inverse wavelength characteristic in order to further account for the headlight radiation . . . to improve the integrity of the collected data by eliminating direct backscatter light that is not indicative of the road conditions.” (Office Action, p. 3). Applicant submits that the Examiner’s contentions not only lack logical coherence, but are completely contradicted by the actual teachings of the applied references, as explained in detail below.

First, to the extent the Examiner contends that “Griesinger discloses a road condition detector that **accounts for the use of the vehicle headlights** by suitabl[y] **compensating an overall detected intensity** (C:9 L:4-24) and **utilizes the characteristics of filter components** for the wavelength ranges detected,” Griesinger clearly indicates that the **filter element** has nothing to do with performing any **compensation**, let alone compensation to **account for the vehicle headlight**. In the first embodiment of Griesinger (shown in Fig. 1), the **filter element** is the dispersive element 7 which **spectrally divides the impinging light** for measurement (col. 6, l. 22-27), but the filter element 7 has nothing to do with any compensation; instead, Griesinger clearly indicates that “possible **interfering influences by ambient light** are **compensated**” by the “**analyzing process**,” in which “**the separation between the ambient light and the sensor light** takes place on the basis of the spectral differentiating characteristics **in a purely mathematical manner**.” (Col. 6, l. 53-58).

Furthermore, in col. 9, l. 4-24 of Griesinger (which is cited by the Examiner in support of the rejection), it is clearly indicated that “[a]t night an in twilight, the headlights of the vehicle can be utilized for the measurements,” and “[i]n this situation, a headlight replaces the sensor light.” In addition, in the second embodiment of Griesinger (described in connection with Fig. 2), “[e]ach line pixel of the sensor line 17 is provided with a broad-band filter”; “the “spectral sensitivities of the filters assigned to the pixels are selected in a mutually independent fashion”; and the “absorption characteristic [of the filter] is a function of the filter thickness.” (Col. 10, l. 58-67). Accordingly, Griesinger clearly indicates that: a) the “interfering influences by ambient light” is sought to be compensated, rather than compensating for the use of the headlight (which is actually used as a replacement for the sensor light); and b) the filter elements disclosed in Griesinger have nothing to do with any compensation, which is actually performed “in a purely mathematical manner.”

Second, to the extent the Examiner contends that “it would have been obvious to a person of ordinary skill in the art to utilize the filter and normalization means of Griesinger in the system of Weidel . . . to improve the road condition determination accuracy,” this alleged “motivation” to utilize the filter doesn’t make any sense in view of the actual teachings of Griesinger. As noted above, Griesinger clearly indicates that the filters are merely used to spectrally divide the impinging light for measurement, and that “interfering influences by ambient light are compensated” by an “analyzing process” which is performed “in a purely mathematical manner.”

Third, to the extent the Examiner further contends that “it would have been obvious to . . . modify the filter to have an inverse wavelength characteristic in order to further account for the headlight radiation . . . to improve the integrity of the collected data by eliminating direct backscatter light that is not indicative of the road conditions,” this assertion is completely and absolutely contradicted by the actual teachings of Griesinger which indicate that “interfering influences by ambient light” is sought to be compensated, rather than compensating for the use of the headlight, which is actually used as a replacement for the sensor light for the road condition measurement.

Independent of the above, the asserted modification of incorporating the filter of Griesinger into the system of Weidel ‘850 simply doesn’t make any sense, since Weidel ‘850

teaches the use of a spectral line filter F that attenuates light in the visible and infrared range except the light from the laser, while the filters of Griesinger are merely used to spectrally divide the impinging light, which function is completely unrelated to the light attenuation sought in Weidel '850.

For at least the foregoing reasons, independent claims 15, 26 and 27, as well as dependent claims 16-20 and 25, are not rendered obvious by the combination of the Weidel '850 and Griesinger references. It is therefore respectfully requested that the rejection be withdrawn.

### **III. Rejection of Claim 21 under 35 U.S.C. § 103(a)**

Claim 21 was rejected under 35 U.S.C. § 103(a) as unpatentable over the Weidel '850 reference, in view of German Patent No. 41 37 551 (the "Weidel '551 reference") and the Griesinger reference. Applicant respectfully submits that this rejection should be withdrawn for at least the following reasons.

Applicant notes that claim 21 ultimately depends on independent claim 15. As noted above, claim 15 is not rendered obvious by the combination of the Weidel '850 and Griesinger references. In addition, the Weidel '551 reference fails to remedy the above-noted deficiencies of the combination of the Weidel '850 and Griesinger references as applied against parent claim 15. Therefore, the combination of the Weidel '850, Weidel '551, and Griesinger references cannot render parent claim 15 and dependent claim 21 obvious. It is therefore respectfully requested that the rejection be withdrawn.

### **IV. Rejection of Claims 22 and 24 under 35 U.S.C. § 103(a)**

Claims 22 and 24 were rejected under 35 U.S.C. § 103(a) as unpatentable over the Weidel '850 reference, in view of French Patent No. 2 732 849 (the "Albou reference") and the Griesinger reference. Applicant respectfully submits that this rejection should be withdrawn for at least the following reasons.

Applicant notes that claims 22 and 24 ultimately depend on independent claim 15. As noted above, claim 15 is not rendered obvious by the combination of the Weidel '850 and Griesinger references. In addition, the Albou reference fails to remedy the above-noted



deficiencies of the combination of the Weidel '850 and Griesinger references as applied against parent claim 15. Therefore, the combination of the Weidel '850, Albou, and Griesinger references cannot render parent claim 15 and dependent claims 22 and 24 obvious. It is therefore respectfully requested that the rejection be withdrawn.

**V. Rejection of Claims 23 and 28 under 35 U.S.C. § 103(a)**

Claims 23 and 28 were rejected under 35 U.S.C. § 103(a) as unpatentable over the Weidel '850 reference, in view of U.S. Patent No. 3,704,375 (the "Slawek reference") and the Griesinger reference. Applicant respectfully submits that this rejection should be withdrawn for at least the following reasons.

Applicant notes that claim 23 ultimately depends on independent claim 15. As noted above, claim 15 is not rendered obvious by the combination of the Weidel '850 and Griesinger references. In addition, the Slawek reference fails to remedy the above-noted deficiencies of the combination of the Weidel '850 and Griesinger references as applied against parent claim 15. Therefore, the combination of the Weidel '850, Slawek, and Griesinger references cannot render parent claim 15 and dependent claim 23 obvious. It is therefore respectfully requested that the rejection of claim 23 be withdrawn.

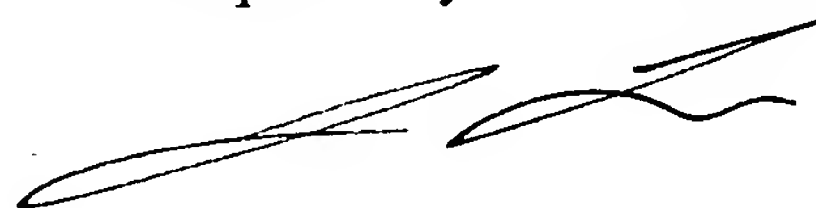
Independent claim 28 includes features analogous to those included in claim 15, i.e., claim 28 recites "the image-sensor surface includes a coating that causes an attenuation of electromagnetic radiation . . . , wherein the coating has an inverse wavelength characteristic as a wavelength characteristic of a headlight of the motor vehicle." The Examiner admits that the Weidel '850 reference does not disclose that the filter is coated onto the image sensor. (1/9/08 Office Action, p. 6). Furthermore, as fully set forth above, nowhere does the combination of the Weidel '850 and Griesinger references disclose, or suggest, the claimed feature that "the coating has an inverse wavelength characteristic as a wavelength characteristic of a headlight of the motor vehicle." Therefore, the combination of the Weidel '850 and Griesinger references does not disclose, or suggest, all the features included in claim 28. In addition, the Slawek reference merely indicates a coating, and the Slawek reference fails to remedy the deficiencies of the combination of the Weidel '850 and Griesinger references. Therefore, the combination of the Weidel '850, Slawek, and Griesinger references does not disclose, or suggest, all the features included in claim 28.

Therefore, for at least the foregoing reasons, independent claim 28 is not rendered obvious by the combination of the Weidel '850, Slawek, and Griesinger references. It is therefore respectfully requested that the rejection be withdrawn.

**VI. Conclusion**

Applicant respectfully submits that claims 15 to 28 of the present application under consideration are now in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

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